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Chairman: Mr. Sharma ..... (Nepal)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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Agenda item 115: Administrative and budgetary coordination of the United Nations with the specialized agencies and the International Atomic Energy Agency (*continued*)

Agenda item 12: Report of the Economic and Social Council

Organization of work

The meeting was called to order at 2.35 p.m.

Agenda item 124: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/56/853; A/57/5/Add.12 and Corr.1, A/57/367, A/57/439, A/57/480 and A/57/593)

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1. **Mr. Sach** (Director of the Programme Planning and Budget Division) introduced the reports of the Secretary-General on the financial performance report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the period from 1 January to 31 December 2001 (A/57/367); on the first performance report of the International Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/57/480); on the financial performance report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the period from 1 January to 31 December 2001 (A/57/368); on the first performance report of the International Tribunal for Rwanda for the biennium 2002-2003 (A/57/481 and Corr.1); on the revised estimates arising in respect of Security Council resolution 1431 (2002) on the establishment of ad litem judges in the International Tribunal for Rwanda (A/57/482); on the conditions of service for the ad litem judges of the International Tribunal for Rwanda (A/57/587); and on the long-term financial obligations of the United Nations with regard to the enforcement of sentences (A/57/347).

2. In the financial performance report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the period from 1 January to 31 December 2001 (A/57/367), the General Assembly was requested to note the utilization of the commitment authority and also to note that the associated financing for the unassessed expenditures in the amount of $413,600 would be drawn from the balance currently available in the Special Account.

3. The first performance report of the International Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/57/480) reflected a requirement for net additional appropriations of $13.1 million based upon adverse experience in respect of exchange rates, inflation and standard costs. Provision was also sought for two additional trial teams at a cost of $0.6 million. The Assembly was requested to revise the appropriation for 2002-2003 and to approve the additional financing by utilizing the unencumbered balance available in the Special Account for the International Tribunal for the Former Yugoslavia.

4. The Assembly was requested to take note of the financial performance report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the period from 1 January to 31 December 2001 (A/57/368), and to note also that the funding of the shortfall in respect of the overexpenditures incurred in 2001 would be addressed in the context of the first performance report for the biennium 2002-2003.

5. The first performance report of the International Tribunal for Rwanda for the biennium 2002-2003 (A/57/481 and Corr.1) reflected a requirement for net additional appropriations of $2.2 million based upon positive experience in respect of exchange rates and standard costs, which were offset by adverse experience in respect of inflation and other expenses for defence counsel. The Assembly was requested to

revise the appropriations for 2002-2003 and to approve financing for 2003.

6. In the report of the Secretary-General on revised estimates arising in respect of Security Council resolution 1431 (2002) on the establishment of ad litem judges in the International Tribunal for Rwanda (A/57/482), the Assembly was requested to appropriate an amount of $5,060,100 gross for the resources required by the International Tribunal for Rwanda for ad litem judges.

7. In his report on conditions of service for the ad litem judges of the International Tribunal for Rwanda (A/57/587), the Secretary-General was proposing to establish the conditions of service applicable to the ad litem judges based on the provisions of General Assembly resolution 56/285, on the emoluments and other conditions of service of the members of the International Court of Justice and the judges of the International Tribunals for the Former Yugoslavia and for Rwanda.

8. The report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences (A/57/347) was submitted in response to the request of the General Assembly in resolution 55/226. The General Assembly was requested to take note of the report.

9. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) (A/57/593), said that the Advisory Committee welcomed the improvements that had been made in the presentation of the reports for the two Tribunals, which were in line with its recommendations.

10. The additional expenditure that had been requested for the International Criminal Tribunal for Rwanda in the performance reports for 2001 (A/57/368) and for the biennium 2002-2003 (A/57/481 and Corr.1) was due largely to the continuing increase in the cost of defence counsel, the extent of which was summarized in paragraph 6 of the Advisory Committee's report. While the Advisory Committee acknowledged that an increase in defence counsel costs could not be avoided if there was an increase in the number of arrests and trials, the financial performance reports of the two Tribunals had not made that clear. The Advisory Committee therefore welcomed the establishment of a panel of consultants to provide advice on improving the capacity of the Tribunals to manage defence counsel costs more effectively and on setting up an appropriate fee structure for defence counsel.

11. The vacancy situation at the International Tribunal for Rwanda continued to be of concern to ACABQ, which had paid particular attention to the circumstances that had kept the posts of Deputy Prosecutor and Chief of Prosecution vacant for such a long time. The Advisory Committee observed that the failure to fill the vacant positions had nothing to do with a lack of qualified candidates. Indeed, it had been informed that there was an abundance of qualified candidates both in the region and elsewhere. Since the vacancies might have adversely affected the performance of the Office of the Prosecutor in Kigali and Arusha, the Advisory Committee recommended, in paragraph 13 of its report, that the Office of Internal Oversight Services (OIOS) should conduct a management review of the Office of the Prosecutor.

12. The Advisory Committee's comments on the request for additional posts to support up to four ad litem judges for the International Tribunal for Rwanda were contained in paragraphs 15 to 17 of its report. With regard to the vacancy situation in the Tribunal, ACABQ recommended an additional 36 posts, with the understanding that that number could be modified should the Security Council increase the number of ad litem judges. More posts could also be obtained after the Tribunal's investigations were completed in June 2003. The Advisory Committee further recommended that the General Assembly should approve the Secretary-General's proposals regarding the conditions of service of ad litem judges of the Tribunal.

13. With regard to the additional expenditure of $3.7 million projected for defence counsel costs for 2003, for the reasons set out in paragraphs 19 to 21 of its report, the Advisory Committee recommended that the General Assembly should authorize the Secretary-General to incur commitments up to the amount of $2.2 million, should it be deemed necessary, and report thereon in the context of the next performance report of the Tribunal.

14. The Advisory Committee's comments and recommendations on the financial performance reports of the International Tribunal for the Former Yugoslavia were contained in paragraphs 25 to 36 of its report. The

Secretary-General had requested two additional trial teams to bring the total up to 12 teams. In paragraph 36 of its report (A/56/665), the Advisory Committee had recommended a total of 11 teams; it wished to reiterate its earlier recommendation that one additional trial team should be approved for the Prosecution Division of the Tribunal.

15. In paragraphs 37 to 45, the Advisory Committee commented on the report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences (A/57/347) and on the results of the implementation of the recommendations of the Expert Group that had been appointed to review the operation and functioning of the International Tribunal for Rwanda. The Committee's recommendations were contained in paragraphs 41 and 45. With regard to the enforcement of sentences, the Committee drew attention to the need to clarify the subject of the cost of upgrading prison facilities, for which funds authorized by the General Assembly had so far not been used.

16. **Mr. Hammerschmidt** (Canada), speaking also on behalf of Australia and New Zealand, said that the considerable progress that had been made by the Tribunals in fulfilling their core mission of bringing to account the political and military leaders responsible for genocide, crimes against humanity and war crimes was due in large part to progress on a number of operational and administrative fronts. The International Tribunal for the Former Yugoslavia had now maximized its operating capacity, implemented timely and essential reforms to cope with the increased pace of work, and helped to reinforce the ethical conduct of its legal counsel. Most notably, it had continued to develop its completion strategy and to integrate it into its operations. While progress had been slower on a completion strategy for the International Tribunal for Rwanda, recent improvements had created the conditions for finalizing such a strategy. Those successes were encouraging and the Tribunals should continue to build on them.

17. Nevertheless, a number of obstacles to the effective and timely fulfilment of the Tribunals' mandates still remained. First, the level of outstanding contributions to the Tribunals was unacceptable. While a small cushion of funds for operating costs in 2003 was expected, the arrears situation continued to threaten the Tribunals' stability. Member States that had not yet remitted their assessed contributions were therefore urged to do so without delay.

18. The vacancy situation in the International Tribunal for Rwanda, particularly the vacancies in the posts of Chief of Prosecution and Deputy Prosecutor, could not be sustained much longer; the absence of key personnel undermined the Tribunal's efforts to undertake its work. Moreover, even though the Fifth Committee had identified oversight at the Tribunals as a priority and had established auditor and investigator posts for each Tribunal, nine months later none of those critical posts had been filled. The delegations on whose behalf he spoke would like to see early progress on the matter.

19. As the Board of Auditors had noted, the frameworks used by the Tribunals for establishing indigence were severely flawed. Given the sums involved, it was not surprising that defence counsel costs should have run well over the budget during the past three years. The financial implications of the problem were of great concern and the recommendations of the Board of Auditors should be implemented without delay.

20. The report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences clearly showed that the short- and long-term financial implications of the Tribunals' work needed to be examined in greater detail. In that connection, it would be useful to know how the cost estimates for maintaining prisoners were determined. Given the uncertainty about the use of resources for the upgrading of prison facilities, Member States might wish to give policy guidance on the issue. The international community, including the Security Council, should also examine more closely the anticipated long-term requirements after the Tribunals had completed their mandates.

21. Another important concern was the need for the Tribunals' completion strategies to be finalized and fully integrated into the management of the two bodies. Coordinated direction and a focus on results were fundamental to their success and results-based budgeting should therefore be mainstreamed into the next budget proposals for the Tribunals, which should outline near-term objectives and completion targets. The proposals should also reflect an administratively proactive approach and outline initiatives for addressing anticipated and potential pitfalls.

Ultimately, the budget should be a yardstick against which delegations could measure the progress of the Tribunals and assess value for money.

22. In refining its completion strategy, the International Tribunal for Rwanda should apply the lessons learned in the International Tribunal for the Former Yugoslavia, particularly with regard to the establishment of a management council for directing that task. Both Tribunals should also clarify their plans for the referral of cases to national courts in the context of their completion strategies.

23. The fiscal circumstances at both Tribunals, the tentative nature of projected costs, and the inability to control the legal aid system adequately convinced the delegations on whose behalf he spoke that the Advisory Committee's recommendations were a prudent course of action at the current time.

24. **Mr. Xudong** Sun (China) said that it was essential for the International Tribunal for Rwanda to strengthen its control over expenditures. His delegation noted with particular concern the increase of $6,555,500 for contractual services in 2001 and the marked increase in the appropriation for defence counsel costs for the biennium 2002-2003. While some of the overexpenditures could be explained by the inability to make accurate forecasts at the time the budget was prepared, others were the result of mismanagement. An effective monitoring and control mechanism should therefore be established to strengthen the expenditure structure of the Tribunals and rein in the upward spiral in defence counsel costs.

25. The current vacancy rate in the International Tribunal for Rwanda was another cause of concern. By the end of 2002, the post of Chief of Prosecution would have been vacant for two years. It was impossible to believe that no suitable candidate could be found to fill the post and his delegation would like to know the real reason behind that extremely abnormal situation. His delegation supported the Advisory Committee's recommendation that the General Assembly should approve 36 of the 46 posts that had been proposed, with additional requirements being met through redeployment.

26. **Mr. Christiansen** (Denmark), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus the Czech Republic, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, and, in addition, Iceland and Liechtenstein, welcomed the reports on the International Tribunals for the Former Yugoslavia and for Rwanda and the report of the Advisory Committee, but expressed disappointment that they had been issued late, particularly the ACABQ report.

27. The European Union strongly supported the Tribunals and valued the work of their staff, but it was concerned at the continuing high vacancy rate at the International Tribunal for Rwanda. It would be seeking updated information from the Secretariat on that matter, in view of the fact that there appeared to be an abundance of qualified candidates in the region and elsewhere applying for the many unfilled positions, including the important posts of Deputy Prosecutor and Chief of Prosecution. In its comments on the reports of the United Nations Board of Auditors, the European Union had referred to the alarming inadequacies in many areas of the management and regulatory systems of both Tribunals. It shared the concern of ACABQ regarding the management of the expenses of the legal aid system at the International Tribunal for Rwanda, the overspend of more than $6 million for 2001 and the projected current requirements of $3.7 million.

28. The European Union was pleased to note, in connection with the Tribunals' completion strategies, that the International Tribunal for Rwanda was due to complete investigations in 2003, and that the International Tribunal for the Former Yugoslavia would complete investigations by 2004 and trials by 2008. The United Nations Board of Auditors had recommended, in its report on the International Tribunal for the Former Yugoslavia (A/57/5/Add.12), that the Tribunal should take a number of steps to control its increasing costs. In response, the Tribunal had established 120 performance indicators for its judicial process. The logical next step was for the Tribunal to prepare its 2004-2005 budget using the principles of results-based budgeting. The European Union wished to learn how the International Tribunal for Rwanda planned to implement the recommendations of the Board of Auditors. Regarding the decision to use ad litem judges, the European Union would be seeking assurances that full and effective use was being made of that additional resource. A further cause of concern was the delay in appointing audit and investigation staff, a measure approved by the General Assembly in 2001. That should be made a priority.

29. A successful completion strategy for the Tribunals was also dependent on the resolution of issues connected with the enforcement of sentences. Those issues should be addressed by the General Assembly and the Security Council.

30. **Mr. Kang** Jeong-sik (Republic of Korea) said that the establishment of the International Tribunals for the Former Yugoslavia and for Rwanda had been unprecedented, so that a number of issues that had not initially been foreseen or fully understood had arisen. However, the Tribunals' work was vital, and efforts should be made to ensure that they operated efficiently and effectively to fulfil their stated goals.

31. The annual costs of the two Tribunals had almost tripled over the past two bienniums. The final level of those costs was unknown, and would depend on the duration of their existence. His delegation was concerned that the Tribunals still lacked firm, realistic and achievable strategies for the completion of their missions. Completion strategies were essential, as, without such strategies, the significance of setting annual objectives, performance indicators and realistic targets would be lost. His delegation agreed with the recommendation made by the United Nations Board of Auditors in its report on the International Tribunal for the Former Yugoslavia (A/57/5/Add.12) that binding budget ceilings, final deadlines and indicators should be used as a way of reducing the Tribunal's final cost.

32. The completion strategies of the Tribunals should strike a proper balance between judicial ambition and budget constraints. Without interfering in the course of justice, a target number of proceedings and trials should be set, and a timetable for prosecution, initial judgements and appeals should be determined. The completion strategies should be reviewed regularly against clear performance indicators.

33. With regard to overexpenditure at the International Tribunal for Rwanda, his delegation shared the concern of the Advisory Committee about the escalating costs of defence counsel. The Tribunal would need to expand its ability to manage, monitor and control those costs. Clear and quantitative criteria should be established to determine which individuals should qualify for legal aid.

34. It was a matter of concern that the posts of Deputy Prosecutor and Chief of Prosecution at the International Tribunal for Rwanda had remained vacant for almost two years; that affected the capacity of the Office of the Prosecutor in Arusha and in Kigali. His delegation agreed with the Advisory Committee's recommendation that the Office of Internal Oversight Services should conduct a management review of the Office of the Prosecutor.

35. **Mr. Sach** (Director of the Programme Planning and Budget Division) said that the concerns of the members of the Committee appeared to focus on filling staff vacancies, defence counsel costs, the long-term financial obligations attached to the enforcement of sentences, the payment of assessments and the use of results-based budgeting in the future.

36. With regard to the chronic problem of vacancies, the overall situation at the International Tribunal for Rwanda had improved slightly and posts had been filled in 2002 faster than had been forecast when the budget for 2002-2003 was being established. Concerns over the delay in filling the post of Deputy Prosecutor in Kigali were being taken seriously. Interviews had been scheduled in Arusha for mid-December, and the Prosecutor had indicated that she would be making her recommendation for an appointment to the Secretary-General by the end of 2002 with a view to filling the post early in 2003. The post of Chief of Prosecution had been re-advertised, having been advertised twice already, as no suitable candidates had been found. The Office of Internal Oversight Services had reported that resident auditor and investigator posts for the two Tribunals had been advertised so that appointments could be made early in 2003.

37. As for defence counsel costs at the International Tribunal for Rwanda, expenditure was recognized as a problem, and the Registrar had established a review panel to examine the legal aid system. Consultants would be recruited to follow up the findings of the review panel, but the issue was a complex one and would take time to solve. Action had also been taken to ensure a closer review and speedier processing of expenditure claims so that obligations were recognized in the accounts as soon as they arose.

38. With regard to the enforcement of sentences, there had been questions from the Committee about the composition and basis of prisoners' maintenance costs, which the ACABQ report on the financing of the International Tribunal for Rwanda (A/56/666) gave as $20 per day. That figure reflected agreements signed by the Registrar with Mali, Benin and Swaziland, and took account of the cost of bedding, toiletries, clothing,

telephone charges, meal supplements, incidentals, medical care and maintenance.

39. At least one delegation had pointed out the problem of the late payment of assessments. The result of that situation had been enforced cross-borrowing at times from the peacekeeping budget. The Registrars of both Tribunals had been warned that they might not be given full expenditure authority in 2003 unless payment patterns improved. The Organization's overall financial situation did not permit provision to be made for further cross-borrowing the following year.

40. As for the use of results-based indicators in the budget proposals for the biennium 2004-2005, implementation in the Registry and the Office of the Prosecutor was certainly possible. The situation was likely to be more difficult in the case of the Chambers, since the Tribunals were subsidiary organs not of the General Assembly, but of the Security Council. Establishing specific objectives for the judicial aspects of the operation was therefore a complex matter.

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

Proposed revisions to the Financial Regulations of the United Nations (A/57/396)

41. **Mr. Halbwachs** (Assistant Secretary-General, Controller), introducing the report of the Secretary-General on the proposed revisions to the Financial Regulations of the United Nations (A/57/396), said that section II of the report presented in tabular form the proposed revisions, the existing Financial Regulations and explanations of the proposed revisions. The proposed revisions had been reviewed by ACABQ and the United Nations Board of Auditors, and their concerns had been taken into account. The report also contained details and explanations of changes to the Financial Rules which the Secretary-General intended to make on his own authority. They were therefore being presented for information.

42. Through the Financial Regulations, the General Assembly provided broad policy directives for the financial management of the Organization. Through the Financial Rules, the Secretary-General stated how the Financial Regulations would be implemented and laid down the parameters within which the Organization's staff would exercise their responsibilities. The Regulations and Rules taken together constituted a single source document for the financial management policies of the United Nations. The Financial Regulations had been issued in 1960 and revised and re-issued in 1985; their sequence and structure was haphazard because of previous partial revision. The goal of the current revision was to simplify and reorganize the Regulations and Rules under subject-relevant articles, and to order them according to the sequence of financial management actions. For the first time, the revision also covered the General Assembly resolutions regarding peacekeeping operations and the procurement rules established by the Inter-Agency Task Force on Common Services. The Financial Regulations had increased in number, mainly because of the inclusion of new Regulations to cover peacekeeping operations, one of the fundamental principles of General Assembly resolution 49/233 on the administrative and budgetary aspects of the financing of peacekeeping operations.

43. The revisions provided the foundation of a systematic overview of the delegation of authority within financial management, and reflected the flow of authorization from the Secretary-General, as chief administrative officer, to the Under-Secretary-General for Management, to the officers of the Department of Management. The decision-making path conformed to the clear, hierarchical structure needed to reinforce accountability and good management. The adoption of concise and logically consistent Financial Regulations was a further step in developing simpler and more straightforward administrative procedures.

44. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that the Advisory Committee had reviewed the proposed Financial Regulations and had had an exchange of views thereon with the Controller. The Advisory Committee's concerns had been taken into account in the proposed revisions to the Financial Regulations and were reflected in the report before the Committee. It had not therefore been necessary to issue a separate report of ACABQ. The new Financial Rules, which had been presented to the Advisory Committee (A/57/396, para. 6), would be promulgated by the Secretary-General following the adoption by the General Assembly of the revised Financial Regulations.

45. **The Chairman** suggested that the Secretariat should prepare a draft decision for consideration by the

Committee in which it would recommend that the General Assembly should:

"1. Take note of the report of the Secretary-General on the proposed revisions to the Financial Regulations of the United Nations (A/57/396) and the observations of the Advisory Committee on Administrative and Budgetary Questions thereon;

"2. Adopt the revised Financial Regulations as set forth in the report of the Secretary-General; and

"3. Decide that these Regulations shall become effective on 1 January 2003."

46. **Ms. Silot Bravo** (Cuba) said that she had no objection to that suggestion, which would help to expedite the Committee's work. However, she trusted that there would be an opportunity for delegations to comment on the report of the Secretary-General before the Committee took action on the draft decision.

47. **The Chairman** said that there would be a further opportunity for discussion once the text of the draft decision was available in all the official languages. He took it that the Committee wished to proceed along the lines he had suggested.

48. *It was so decided.*

Request for a subvention to the United Nations Institute for Disarmament Research resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (A/57/7/Add.7; A/C.5/57/4)

49. **Mr. Sach** (Director of the Programme Planning and Budget Division), introducing the note by the Secretary-General on the request for a subvention to the United Nations Institute for Disarmament Research (UNIDIR) resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (A/C.5/57/4), said that an amount of $227,600 was sought. Provision had been made in the programme budget for the biennium 2002-2003, under section 4 (Disarmament), for the subvention to the Institute. Thus, should the General Assembly approve the recommendation of the Board of Trustees, no additional appropriation would be required.

50. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of ACABQ (A/57/7/Add.7), said that the Advisory Committee recommended that the General Assembly should approve the request for a subvention to the Institute for 2003 in the amount of $227,600.

United Nations Institute for Training and Research (A/57/7/Add.15; A/57/479)

51. **Mr. Sach** (Director of the Programme Planning and Budget Division), introducing the report of the Secretary-General on the United Nations Institute for Training and Research (UNITAR) (A/57/479), said that the report had been prepared pursuant to General Assembly resolution 56/208, in which the Secretary-General had been requested to clarify why UNITAR did not benefit from rental rates and maintenance costs similar to those enjoyed by other organizations affiliated with the United Nations. In accordance with the provisions of General Assembly resolution 41/213, users occupying office space on United Nations premises were charged rents based on current commercial rates. The specific administrative and financial arrangements for rental and maintenance costs for UNITAR were set out in paragraphs 13 to 15 of the report. Should the General Assembly approve free rent and maintenance for UNITAR, an additional biennial appropriation of $293,000 would be required under the regular budget in the current biennium; that amount would represent a charge against the contingency fund and would be considered in the context of the consolidated statement to be presented by the Secretary-General in December 2002, in accordance with the provisions of General Assembly resolution 42/211. It would also be necessary to amend articles VIII and XI of the statute of the Institute.

52. Details on the status of contributions to, and the financial situation of, UNITAR were provided in the annex to the report. He noted, in that connection, that, while UNITAR currently owed the United Nations $310,974 for unpaid rent and maintenance costs, the financial situation of the Institute could hardly be described as precarious. Indeed, the account had shown a positive balance for a number of years.

53. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of ACABQ

(A/57/7/Add.15), drew attention to paragraph 11 of that document.

54. **Mr. Pulido León** (Venezuela), speaking on behalf of the Group of 77 and China, said that a draft resolution on UNITAR had been introduced in the Second Committee, which had considered the Secretary-General's report on the Institute under agenda item 92, Training and research. In the light of the ongoing discussions in the Second Committee, he was not in a position to make a statement on the report. However, he wished to be given an opportunity to do so before the report was taken up in informal consultations.

55. **The Chairman** said that that request would be taken into account in the programme of work.

56. **Mr. Chaudhry** (Pakistan) said that the activities of UNITAR were of great value to the United Nations and to Member States, especially developing countries. Many delegates had benefited from the Institute's focused interactive courses, which enabled them to participate more effectively in the intergovernmental process and which were provided free of charge. UNITAR had served the United Nations well. It was therefore regrettable that the Organization was not ready to contribute to the strengthening of the financial situation of the Institute by providing it with office space on a rent-free and maintenance-free basis. In resolution 56/208, the General Assembly had requested the Secretary-General to clarify the reasons for the discriminatory treatment afforded UNITAR. However, the report before the Committee merely set out the programme budget implications of waiving the rental rates and maintenance costs charged to the Institute. While the Advisory Committee stated, in paragraph 5 of its report (A/57/7/Add.15), that UNITAR had been able to continue its existing activities with no deficit, the Institute had, in fact, accumulated debts of $310,974. The time had come to recognize the laudable services rendered by UNITAR and to provide it with the resources it needed to continue its good work.

57. **Ms. Silot Bravo** (Cuba) said that her delegation wished to associate itself with the statement made by the representative of Pakistan. UNITAR should be provided with office space on a rent-free and maintenance-free basis, particularly since other organizations affiliated with the United Nations were already benefiting from similar arrangements.

58. **Ms. Udo** (Nigeria) said that her delegation fully endorsed the statement made by the representative of Pakistan.

59. **The Chairman** suggested that, in order to expedite the work of the Committee, other delegations should make their statements when the Committee reverted to the issue.

60. *It was so decided.*

Agenda item 111: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

Agenda item 115: Administrative and budgetary coordination of the United Nations with the specialized agencies and the International Atomic Energy Agency (*continued*)

Activities of the Advisory Committee on Administrative and Budgetary Questions (A/57/7)

61. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) introduced the first report of the Advisory Committee on Administrative and Budgetary Questions on the activities of the Advisory Committee during the fifty-sixth session of the General Assembly (A/57/7). The report contained details of the Advisory Committee's activities during the fifty-sixth session of the General Assembly in New York and at other duty stations. The reports prepared by the Committee during the reporting period were set out in Annex II. It could be seen that ACABQ reported not only to the General Assembly but also to other intergovernmental bodies, such as the legislative bodies of funds and programmes.

62. In the past, there had sometimes been requests from members of the Fifth Committee that the Advisory Committee should take into account the programme of work of the Fifth Committee when considering meetings away from New York. The Advisory Committee had always complied with those requests. Missions of the Advisory Committee to overseas duty stations provided valuable experience and information which the Advisory Committee used when preparing its reports to the Fifth Committee and

to other bodies. They also gave representatives of the host duty stations the opportunity to become familiar with aspects of United Nations budgetary and review processes that could not be learned so easily from Secretariat departments.

63. **The Chairman** said that, if he heard no objection, he would take it that the Committee wished him to recommend to the General Assembly that it should take note with appreciation of the first report of the Advisory Committee on Administrative and Budgetary Questions on the activities of the Advisory Committee during the fifty-sixth session of the General Assembly and request the Secretary-General to bring the report to the attention of the executive heads of the specialized agencies and the funds and programmes concerned.

64. *It was so decided.*

Agenda item 12: Report of the Economic and Social Council (A/57/3, chapters I, VII (sections B and C) and IX)

65. **The Chairman** drew attention to chapters I, VII (sections B and C) and IX of the report of the Economic and Social Council for 2002 (A/57/3), which had been allocated to the Fifth Committee.

66. If he heard no objection, he would take it that the Committee wished to recommend to the General Assembly that it should take note of the chapters of the report of the Economic and Social Council which had been allocated to the Fifth Committee.

67. *It was so decided.*

Organization of work

68. **Mr. Pulido León** (Venezuela) asked for clarification as to why the report on the administration of justice, which the Secretary-General had been asked to submit in General Assembly resolution 55/258 on human resources management, was still not available for consideration. It was now two years since the report had been requested and, whenever the matter was raised, different explanations were given for the failure to submit it.

69. **Mr. Acakpo-Satchivi** (Secretary of the Committee) said it was true that a report on the administration of justice at the United Nations had been requested, but pointed out that the General Assembly had decided to make the question a separate agenda item (agenda item 123). Consideration of that item should not be confused with matters relating to human resources. The item was not on the agenda at present because not all of the relevant reports had been published. In addition, although the report of the Joint Inspection Unit on reform of the administration of justice in the United Nations system (A/57/441) had been submitted, a period of six months had to be allowed to enable the United Nations System Chief Executives Board for Coordination (CEB) to submit its remarks on the report, before it could be properly considered. It was also necessary to wait for the General Assembly to complete its deliberations on the report of the Secretary-General on the strengthening of the United Nations: an agenda for further change (A/57/387). Consideration of the item had therefore been deferred for the moment.

70. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that the Advisory Committee had reviewed the Secretary-General's report (A/57/387) and that a number of fundamental questions had emerged from that review. The Advisory Committee was also awaiting replies from the specialized agencies concerning the report of the Joint Inspection Unit. The administration of justice was a very important issue and its examination by the Fifth Committee should not be rushed. In view of the additional information the Advisory Committee had requested, it was unlikely that it would complete its own report in time for the Fifth Committee to discuss the matter before the end of the year.

The meeting rose at 4.35 p.m.

United Nations A/C.5/57/SR.27

General Assembly
Fifty-seventh session

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Fifth Committee

Summary record of the 27th meeting
Held at Headquarters, New York, on Thursday, 21 November 2002, at 9.30 a.m.

Chairman: Mr. Sharma ..... (Nepal)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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Agenda item 125: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (*continued*)

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

Subvention to the United Nations Institute for Disarmament Research (UNIDIR) resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (continued)

Organization of work

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02-70463 (E)

The meeting was called to order at 9.35 a.m.

Agenda item 124: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (*continued*) (A/56/853; A/57/5/Add.12 and Corr.1, A/57/367, A/57/439, A/57/480 and A/57/593)

Agenda item 125: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (*continued*) (A/56/853; A/57/5/Add.11 and Corr.1 and 2, A/57/347, A/57/368, A/57/439, A/57/481 and Corr.1, A/57/482, A/57/587 and A/57/593)

1. **Ms. Lock** (South Africa) said that her delegation was encouraged by the success achieved by the International Tribunal for Rwanda, despite the difficult circumstances in which it operated and the unrealistic demands that Member States had occasionally placed on it. She was particularly encouraged by the assurances that the Tribunal was making steady progress towards meeting its biennial performance projections and that it had taken a number of measures to exercise greater judicial control over proceedings and to expedite trials and appeals, while scrupulously observing international norms governing fair trial and full respect for the rights of the accused. Her delegation hoped that the appointment of the ad litem judges would contribute to the Tribunal's efforts to reduce the length of pre-trial detention and that the Tribunal's original proposal for nine ad litem judges would receive serious consideration by the relevant organ.

2. The unacceptably high vacancy rate at the Tribunal was a matter of concern and her delegation supported the Advisory Committee's recommendation that greater flexibility should be exercised in the recruitment process. The long delay in filling the posts of Chief of Prosecution and Deputy Prosecutor was particularly disturbing and her delegation was therefore encouraged by the Secretariat's assurances that there was an abundance of qualified candidates in the region and elsewhere. Given the important role that the Office of the Prosecutor in Arusha was expected to play in the implementation of the Tribunal's completion strategy, those positions should be filled without delay. Member States also had a collective responsibility to ensure that the Tribunal received all the financial and administrative resources it needed to fulfil its mandate.

3. The International Tribunal for Rwanda had made and would continue to make a significant contribution to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda. However, the responsibility of the United Nations for promoting national reconciliation and justice for the victims of the 1994 genocide should not end upon the expiration of the Tribunal's mandate. In that connection, her delegation welcomed the report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences (A/57/347). Those African States that had indicated their willingness to accept and imprison persons convicted by the Tribunal should receive the support of the United Nations for the upgrading of prison facilities to meet minimum international standards. The Organization should also contribute to the upkeep and maintenance costs arising from the enforcement of sentences. It was therefore a matter of concern that the Tribunal had not fully utilized the resources that had been budgeted in 2001 for the upgrading of prison facilities, owing to the uncertainties that had arisen from an interpretation that the Tribunal's statute did not include provisions for the upgrading of such facilities. That interpretation had led to a situation in which no provision had been made in the resource requirements for 2002-2003 for the upgrading of facilities. Her delegation was encouraged, however, by the observation in paragraph 17 of the report of the Secretary-General that it would be proper and lawful for the United Nations to bear such costs, and it would welcome an indication of how the situation could be remedied.

4. **Ms. Nakian** (United States of America) said that her delegation continued to support the work of the International Tribunals for Rwanda and for the Former Yugoslavia. It noted that many positive steps had been taken to implement the recommendations in the reports of the United Nations Board of Auditors (A/57/5 Add.11 and Add.12, in the Secretary-General's first report on the implementation of the Board's recommendations (A/57/416/Add.1) and the report of

the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunals for the Former Yugoslavia and for Rwanda (A/56/853).

5. Both Tribunals had specifically prohibited overbilling and frivolous practices by counsel, and fee-splitting and gift-giving between members of the defence team and their clients. They had formulated, or were in the process of formulating, a working definition of "indigence" to determine who qualified for legal aid. Her delegation commended the International Tribunal for the Former Yugoslavia for improving the management of its legal aid programme and for enforcing international best practices in legal ethics. It recognized that the International Tribunal for Rwanda had exercised greater control over judicial proceedings and had imposed sanctions for unwarranted judicial and administrative conduct. Much had been achieved, but much remained to be done.

6. Her delegation noted with concern that some of the posts approved by the General Assembly in resolution 56/248 to provide the two Tribunals with on-site audit and investigation services had not been filled. It called for action to remedy that situation, and requested details on the recruitment process. Her delegation was not convinced that the International Tribunal for Rwanda had effectively managed, monitored and controlled expenditure within its legal aid system, and therefore concurred with the recommendation of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) not to authorize additional defence counsel expenditure of $3.7 million for the remainder of the biennium 2002-2003. It wished to receive details of the findings of the panel established to review those costs (A/57/368, paragraph 29). Like ACABQ, her delegation viewed the long-standing vacancies for the posts of Deputy Prosecutor and Chief of Prosecution as a problem which had undoubtedly affected the ability of the Office of the Prosecutor in Arusha and in Kigali to develop the coherent, coordinated investigation and prosecution policy it would need to establish a completion strategy for its work.

7. Reflecting its concern at escalating defence counsel costs, her delegation supported the recommendation of the Advisory Committee that the additional appropriation of funds which the International Tribunal for Rwanda had requested on the grounds of exchange rate gains and cost savings should not be approved. In any event, positive exchange rate trends might continue, making it premature to authorize additional funds for the current biennium.

8. Although the Security Council had approved the recruitment of four ad litem judges for the International Tribunal for Rwanda, it appeared that the composition of the Tribunal's Chambers was such that only multiples of three judges (three, six or nine) could be used. Her delegation wondered whether the services of the fourth judge would therefore be utilized. It agreed with ACABQ that, in the light of the high vacancy rates at the International Tribunal for Rwanda, the requested number of support staff for the ad litem judges should be reduced and additional needs met through redeployment. The appointment of the ad litem judges should place the Tribunal in a better position to establish a strategy for the completion of its work, and the number of staff it employed could be expected to decrease once its investigations came to an end in 2003. With regard to the long-term costs of enforcing the Tribunal's sentences, her delegation shared the opinion of ACABQ that the model agreements with the countries accepting prisoners had developed in an ad hoc manner, and urged action to provide policy guidance on that matter.

9. With regard to the request for the approval of an additional trial team for the International Tribunal for the Former Yugoslavia, which had originally not been granted, the information provided by the Tribunal, and its intention to adhere to its completion strategy, had led her delegation to lend support to the addition of at least one trial team to the Prosecution Division of that Tribunal. In the context of the Tribunal's completion strategy, her delegation agreed that the Tribunal should start to plan early for a reduction in the number of investigation staff in the Office of the Prosecutor.

10. **Mr. Kandanga** (Namibia) said that his delegation was concerned about the escalation of defence counsel costs at the International Tribunal for Rwanda, but commended its Registrar and judges for the action they had taken to remedy the situation. It looked forward to hearing the recommendations of the panel appointed to review the defence counsel arrangements. It was not acceptable that the two critical positions of Deputy Prosecutor and Chief of Prosecution had remained vacant for so long. As the Advisory Committee had pointed out, the situation had not been caused by a shortage of qualified candidates. His delegation concurred with ACABQ that the Office of Internal

Oversight Services should conduct a management review of the Office of the Prosecutor, paying particular attention to the circumstances which had caused the two posts to remain unfilled.

11. With regard to the report of the Secretary-General on the long-term financial obligations with regard to the enforcement of the sentences (A/57/347), his delegation requested further explanation as to why only part of the allocation of resources to upgrade prison facilities authorized for 2001 had been spent, especially in view of the observation in the report that such expenditure appeared to be lawful and proper. It was unfair to expect countries with limited financial means to improve detention conditions to meet minimum United Nations standards without assistance from the Organization. The issue was of great concern to a number of African countries.

12. **Ms. Udo** (Nigeria) said that the existence of the Tribunals testified to the determination of Member States to condemn the propagation of evil in all its manifestations. However, while the International Tribunal for the Former Yugoslavia had made significant progress towards implementing the reforms that enabled it to discharge its mandate more effectively, the International Tribunal for Rwanda continued to be plagued by institutional problems. The high vacancy rate, for example, including the failure to fill the posts of Chief of Prosecution and Deputy Prosecutor, despite repeated appeals by the General Assembly for the posts to be filled without delay, gave cause for particular concern. The General Assembly should be given a detailed explanation of the reasons for that situation and the Office of Internal Oversight Services should conduct a management review of the Office of the Prosecutor, paying particular attention to the problems that had arisen in filling those two critical posts.

13. The other institutional problem of the International Tribunal for Rwanda stemmed from the lack of adequate management support for such a sensitive Tribunal. Unfortunately, as long as the posts of Chief of Prosecution and Deputy Prosecutor remained unfilled, there could be no real solution to the problem. The Tribunal was in dire need of leadership and guidance to develop a completion strategy for investigation and prosecution, but it lacked the requisite personnel since the Prosecutor was busy with other equally important duties.

14. Her delegation was also concerned about the overexpenditure for contractual services for the International Tribunal for Rwanda and the related issue of the continuously escalating indigency expenses for the defence counsel. There was need for proper management and auditing of such services, yet, one year after the General Assembly had approved them, the posts were still not filled.

15. On the issue of the enforcement of sentences, her delegation noted with surprise that the agreements which the Tribunal had concluded with the countries concerned had failed to state that the Tribunal would bear the cost of upgrading prison facilities, despite the fact that the sum of $213,500 had been provided for that purpose. It concurred with the Advisory Committee's position that future budgetary requests on the enforcement of sentences would be considered on a case-by-case basis.

16. The International Tribunal for Rwanda should make a serious effort to address the issues raised in the various reports and to learn from the experience of the International Tribunal for the Former Yugoslavia. It should also develop a clear completion strategy that would guide it to the completion of its investigation, which was projected for June 2003.

17. **Mr. Lamba** (Malawi) said that the work of the two Tribunals had helped to engender a sense of justice in the minds of the victims of the horrific acts of genocide that had been perpetrated in the two countries. His delegation noted with satisfaction that the International Tribunal for Rwanda had indicted 80 persons, 60 of whom were currently in custody. It hoped that, despite the challenging circumstances in which the Tribunal continued to operate, conclusive judgements would be made on some pending cases by the end of the year.

18. His delegation was concerned, however, about the high rate of unfilled vacancies on the Tribunal, despite the abundance of suitably qualified persons in the region and elsewhere. Of particular concern was the failure to fill the posts of Chief of Prosecution and Deputy Prosecutor. The matter should be given the urgent attention it deserved in order to protect the Tribunal's integrity. Extreme caution should be taken to maintain the standard of performance through the selection of appropriately qualified personnel for the posts. The Secretary-General should also expedite the

appointment of four ad litem judges to strengthen the Tribunal.

19. His delegation supported the proposal to revise the appropriation for the International Tribunal for Rwanda for the biennium 2002-2003, taking into account the additional requirements arising from the various adjustments, defence counsel costs and the appointment of the ad litem judges, whose conditions of service should be similar to those of the International Tribunal for the Former Yugoslavia.

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

Subvention to the United Nations Institute for Disarmament Research (UNIDIR) resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (*continued*) (A/57/7/Add.7, A/C.5/57/4)

20. **The Chairman** said that, since there had been no objection to the request for a subvention to the United Nations Institute for Disarmament Research, he took it that the Committee agreed that the Secretariat should prepare a draft decision on the matter, stating that the Committee:

> "Having considered the note by the Secretary-General on the request for a subvention to the United Nations Institute for Disarmament Research (A/C.5/57/4) and the related report of the Advisory Committee on Administrative and Budgetary Questions (A/57/7/Add.7), approves the request for a subvention to the United Nations Institute for Disarmament Research from the regular budget of the United Nations for 2003".

21. *It was so decided.*

Organization of work

22. **Mr. Christiansen** (Denmark) asked for clarification of the grounds for placing the financing of the United Nations Institute for Training and Research on the agendas of both the Fifth and Second Committees. His delegation could not determine which, if any, resolution had provided the basis for that decision, particularly as the issue appeared to be a purely budgetary one. It wished to have details of how the officers of the Fifth and Second Committees intended to handle the matter.

23. **The Chairman** said that that information would be provided.

The meeting rose at 10.15 a.m.

United Nations A/C.5/57/SR.28

General Assembly
Fifty-seventh session

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Fifth Committee

Summary record of the 28th meeting
Held at Headquarters, New York, on Wednesday, 27 November 2002, at 2.30 p.m.

Chairman: Mr. Sharma ..... (Nepal)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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Presentation of estimates of staff assessment (*continued*)

Implementation of projects financed from the Development Account (*continued*)

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02-71668 (E)

Experience in applying the revised administrative arrangements approved by the General Assembly for the International Trade Centre (United Nations Conference on Trade and Development/World Trade Organization) in its decision 53/411 B (continued)

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Agenda item 111: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Procurement reform (continued)

Agenda item 147: Financing of the United Nations Mission in Bosnia and Herzegovina (*continued*)

The meeting was called to order at 2.35 p.m.

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

United Nations Institute for Training and Research (UNITAR) (continued) (A/57/7/Add.15, A/57/479)

1. **Mr. Pulid León** (Venezuela), speaking on behalf of the Group of 77 and China, expressed appreciation to the Director of the Programme Planning and Budget Division for his introduction of the report of the Secretary-General on the United Nations Institute for Training and Research (UNITAR) (A/57/479) and to the Chairman of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) for his introduction of the related report of the Advisory Committee (A/57/7/Add.15) He pointed out, however, that their late publication had not allowed time for a careful analysis of the issues which they covered. It was also unfortunate that the Secretariat had chosen to submit the reports simultaneously to the Second Committee and the Fifth Committee, thus creating confusion. He asked why that course of action had been taken.

2. He commended the work of UNITAR which would benefit the developing countries. The Institute had had continued financial difficulties, stemming mainly from a decline in contributions from developed countries, despite the considerable advantage those countries drew from it, and from the high cost of rent and maintenance. That had led the General Assembly, in resolution 56/208, to ask the Secretary-General to clarify why UNITAR did not benefit from rental rates and maintenance costs similar to those enjoyed by other organizations affiliated with the Organization. In his report, the Secretary-General explained the privileges enjoyed by the United Nations Institute for Disarmament Research (UNIDIR) and the United Nations Research Institute for Social Development (UNRISD) from reduced rental and maintenance costs. The Advisory Committee pointed out that, although UNITAR had been able to meet its operating costs until 30 September 2002, it had accumulated a debt of $310,974 for rent and maintenance costs alone.

3. The Group of 77 and China attached great importance to the continued functioning of UNITAR. It hoped that the Institute would be provided with office premises free of rent and maintenance charges, and that the recommendation in paragraph 25 of the report of the Secretary-General (A/57/479) would be implemented.

4. **Mr. Al-Malki** (Bahrain) said that his delegation supported the views expressed by the representative of Venezuela on behalf of the Group of 77 and China. Research and training were vital; learning from past experience could provide a solid basis for economic and social progress. For that reason, the establishment of UNITAR had been an important step in helping to build capacity in the interests of promoting peace and security and encouraging social and economic development. The demand for UNITAR training courses for diplomatic staff was proof of its value; the Institute's work was particularly necessary to help developing countries, which could not afford to provide training in economic, social, international trade and other matters which the United Nations regularly discussed.

5. His delegation approved the recommendations in the report of the Secretary-General, including the recommendation concerning the possibility of providing the Institute with accommodation on a rent- and maintenance-free basis, and it looked forward to efforts to settle the Institute's outstanding debt or to reduce it by means of a resolution of the General Assembly. In the future, UNITAR should be treated in the same way as other organizations affiliated with the United Nations. It deserved the continued support of the international community.

6. **Ms. Attwooll** (United States of America) said that the members of the Committee had shown their appreciation of UNITAR by their comments at the current and previous meetings. New delegates found the training it provided invaluable. The report of the Secretary-General on the Institute was welcome. She noted that the annexes to the report showed UNITAR to be in a relatively good financial situation at a time when other bodies were struggling to maintain the level of their voluntary contributions. As a result, she was concerned that it should be unable to pay rent, and recalled that its statute stipulated that its expenses should be met from voluntary contributions, donations and grants rather than from the regular budget of the United Nations. Accordingly, she wished to know on what basis UNITAR had withheld rent payments, whether the Institute's Board of Trustees had approved that action and, in the light of the apparently healthy

financial situation of the Institute, when the United Nations could expect its rent arrears to be paid. She also asked what functions of the United Nations had been affected by the failure of UNITAR to make payments and requested a list of other bodies that were charged rent by the United Nations. If States Members of the United Nations failed to pay assessments, they attracted penalties, such as being deprived of voting rights. She asked for details of the Organization's policy regarding non-payment of other financial obligations, and of how that policy would be applied to UNITAR.

7. **Mr. Christiansen** (Denmark), speaking on behalf of the European Union, said that he would appreciate an answer to the question he had asked at the Committee's previous meeting, namely which Committee, the Second or the Fifth, was dealing with the question of UNITAR. The European Union fully agreed with the statement in paragraph 2 of the report of the Secretary-General (A/57/479) that the requests in resolution 56/208 related mainly to administrative and financial questions connected with UNITAR and should therefore be discussed by the Fifth Committee. Despite that conclusion, the issue had been referred to the Second and Fifth Committees at the same time, causing a duplication of work. He noted that similar procedural conflicts had arisen before.

8. The European Union shared the concern expressed by the General Assembly in section VI, paragraph 3, of resolution 45/248 B at the tendency of its substantive Committees and other intergovernmental bodies to involve themselves in administrative and budgetary matters. He urged the Chairman to clarify the situation, so that the members of the Committee would have a clear framework in which to conduct their work. If the matter was still before the Second and Fifth Committees simultaneously, the Chairman should consult the President of the General Assembly and inform both Committees of the outcome of that consultation.

9. **Mr. Sach** (Director of the Programme Planning and Budget Division) said that the report of the Secretary-General had been issued in response to General Assembly resolution 56/208, which had begun life in the Second Committee. The Second Committee had been allocated agenda item 90 (b), which covered the substantive work of UNITAR under training and research, and had submitted a resolution calling for rent-payment relief for the Institute (A/C.2/57/L.35). Under the rules of procedure of the General Assembly, that resolution must be accompanied by details of potential programme budget implications, which were duly set out in document A/C.2/57/L.50. It was therefore entirely possible that the General Assembly would receive two requests for rent relief for UNITAR, one from the Second Committee and one from the Fifth Committee. The Second Committee seemed to have failed to comply with section VI of General Assembly resolution 45/248 B, which referred to the responsibilities of the various Committees. The issue of payment of rent was clearly a financial matter unrelated to the substantive issues of research and training. It appeared that an over-zealous UNITAR "constituency" in the Second Committee had proposed the draft resolution.

10. Clearly, before the matter was considered by the General Assembly, one or other of the two Committees should halt its proposal. Perhaps the best course of action was for the Fifth Committee to inform the Second Committee that it was seized of the matter, so that the Second Committee could suspend its consideration of it pending discussion by the Fifth Committee.

11. **Mr. Pulido León** (Venezuela) said that the matter of UNITAR finances had been considered by the Second and Fifth Committees simultaneously because the Secretariat had submitted the report of the Secretary-General (A/57/479) to both Committees. If it was a matter of common knowledge that administrative and financial questions were discussed by the Fifth Committee, there was no reason for such issues to be referred to another Committee. The current problem was not an isolated incident. During the current session alone, issues which were logically part of the remit of the Fifth Committee had also been placed before the First Committee and the Third Committee. He asked who would request the Second Committee to drop its draft resolution. If the Second Committee had produced a draft resolution on the subject, it should give the Fifth Committee a mandate to discuss the financial issues in question. Clearly, the Secretariat needed to be more transparent in the submission of its reports.

12. **Mr. Chaudhry** (Pakistan) said that the benefits of UNITAR and the legitimacy of its request for greater resources were not in question; it was the procedural issue that needed clarification. The argument put forward by the Director of the Programme Planning and Budget Division was hard to follow and his

references to an over-zealous "constituency" in the Second Committee was misplaced. The issue had consistently been on the General Assembly's agenda. The problem was that a single report appeared to have been submitted to two Committees, which was, to say the least, a violation of the rules of procedure.

13. **Mr. Christiansen** (Denmark), speaking on behalf of the European Union, concurred: the confusion would lead to a regrettable duplication of work. At the same time, the substantive issue should not be forgotten in the midst of the procedural discussions. He therefore urged the Chairman to inform the Chairman of the Second Committee that the Fifth Committee was seized of the matter. It would then be possible to find a viable solution to the problems of UNITAR.

14. **Ms. Udo** (Nigeria), after endorsing the statement made on behalf of the Group of 77 and China, requested further clarification as to who represented the "constituency" of UNITAR. Her own guess was that the reference was to the main beneficiaries of the Institute's end product, namely the developed countries, including the United States of America.

15. **Mr. Tootoonchian** (Islamic Republic of Iran), also endorsed the statement made on behalf of the Group of 77 and China. No one questioned the importance of UNITAR in helping Member States, or the need to alleviate its financial difficulties. The best way to do so was through increased voluntary contributions, but the Institute should also benefit from free rent and maintenance, as other United Nations agencies did. Lastly, although the Second Committee was fully entitled to consider the issue, the prerogative of considering financial questions was the Fifth Committee's.

16. **Mr. Pulido León** (Venezuela), speaking on behalf of the Group of 77 and China, requested clarification on a substantive as well as a procedural aspect of the issue. He noted that document A/57/479, annexes I and II, revealed an extremely irregular pattern of contributions and other income. A comment on the situation by a representative of the Institute would be welcome. If its income fell below a certain level, the training that was its raison d'être would suffer.

17. **Mr. Sach** (Director of the Programme Planning and Budget Division) said that, although financial data were always open to various interpretations, the Institute's reserves were sufficient for 6 to 12 months' expenditure, which could be considered a relatively healthy situation. The non-payment of rent was not a sign of the Institute's financial fragility: it was perceived by the United Nations and the Swiss Government as an unwillingness to pay. There had been no official explanation of the Institute's policy.

18. He confirmed that UNIDIR and UNRISD did not pay rent or maintenance, but organizations that did pay such costs included the Food and Agriculture Organization of the United Nations (FAO), the International Atomic Energy Agency (IAEA), the United Nations Compensation Commission, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Industrial Development Organization (UNIDO), the Federation of International Civil Servants' Associations (FICSA), the World Federation of United Nations Associations, the International Seabed Authority, the United Nations International Drug Control Programme, the United Nations Fund for International Partnerships (UNFIP) and the Office of the United Nations High Commissioner for Refugees (UNHCR). The whole list was available to delegations on request.

19. As for his reference to a UNITAR "constituency" in the Second Committee, he had simply meant that the sponsors of draft resolution A/C.2/57/L.35 were clearly the delegations most interested in the Institute's future. With regard to the questions about procedure, he still believed that only one Committee need consider the question of UNITAR. He was confident that, when the Second Committee learned that the Fifth Committee was dealing with the issue, it would willingly cede its responsibility.

20. **The Chairman** said that, although he doubted that the Second Committee would be keen to cede responsibility, he would, as suggested, talk to the Chairman of the Second Committee, not as part of a new process but building on the achievements of the past two years.

21. **Mr. Pulido León** (Venezuela), speaking on behalf of the Group of 77 and China, said that the Fifth Committee could reach no decision until the Second Committee had adopted its draft resolution.

22. **Mr. Christiansen** (Denmark), speaking on behalf of the European Union, urged the Chairman to schedule informal consultations within the Fifth Committee in order that the substantive issue of UNITAR should not suffer from the procedural confusion.

23. **The Chairman** said that he had just been informed that the Second Committee had cancelled its own informal consultations, pending the Fifth Committee's consideration of the issue.

24. **Mr. Chaudhry** (Pakistan) said that, according to his understanding, the Second Committee consultations had been suspended pending consultations between the Bureaux of the Second and Fifth Committees. In any case, the logical course of action was for the Fifth Committee to deal with the issue once the Second Committee had reached its decision.

25. **Ms. Udo** (Nigeria) requested that, in addition to a list of organizations that paid rental and maintenance costs, a comparative study should also be made of bodies that paid rent but benefited from the training that UNITAR provided free of charge.

Construction of additional office facilities at the Economic Commission for Latin America and the Caribbean, Santiago (A/57/7/Add.8 and A/57/467)

26. **Mr. Sach** (Director of the Programme Planning and Budget Division), introducing the report of the Secretary-General on construction of additional office facilities at the Economic Commission for Latin America and the Caribbean, Santiago (A/57/467), said that the General Assembly was requested to authorize the construction of three new modules as an extension to the North Building at the United Nations compound in Santiago for a total gross space capacity of 733 m^2. The additional office space was required to relocate staff currently occupying sub-standard offices which were unsafe and did not provide adequate working conditions. The construction costs, which would amount to $736,900, would be financed from the available balance in the construction-in-progress account, currently $1,041,200; no additional appropriations would be required. He noted that, in accordance with the recommended procedure, the construction proposal had been reviewed in detail by the Advisory Committee on Administrative and Budgetary Questions (ACABQ) prior to the formulation of the report.

27. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of ACABQ (A/57/7/Add.8), said that the submission of the construction proposal to the Advisory Committee was in line with the procedures set out in General Assembly resolution 37/237. In that connection, he drew attention to the annex to the report. The Advisory Committee recommended that the General Assembly should authorize the construction of the three new modules, with an additional gross space of 733 m^2, as an extension to the North Building at the United Nations compound in Santiago. The Advisory Committee also recommended that the Assembly should authorize the funding of the total estimated cost of $736,900 from the available balance in the construction-in-progress account.

Cooperation between headquarters departments and regional commissions (continued) (A/C.5/57/L.15)

United Nations Fund for International Partnerships (continued) (A/C.5/57/L.16)

Inter-organizational security measures: framework for accountability for the United Nations field security management system (continued) (A/C.5/57/L.17)

Conversion into established posts of some temporary assistance posts financed under section 2 of the programme budget (continued) (A/C.5/57/L.19)

Cases in which incumbents of the posts are being paid at a level other than the one provided for the post (continued) (A/C.5/57/L.19)

Presentation of estimates of staff assessment (continued) (A/C.5/57/L.19)

Implementation of projects financed from the Development Account (continued) (A/C.5/57/L.20)

Experience in applying the revised administrative arrangements approved by the General Assembly for the International Trade Centre (United Nations Conference on Trade and Development/World Trade Organization) in its decision 53/411 B (continued) (A/C.5/57/L.21)

Plan to increase the regular budget component of the United Nations Office at Nairobi (continued) (A/C.5/57/L.23)

Proposed revisions to the Financial Regulations of the United Nations (continued) (A/C.5/57/L.24)

Comprehensive review of the post structure of the United Nations Secretariat (continued) (A/C.5/57/L.25)

Interim report on results-based budgeting for the biennium 2002-2003 (continued) (A/C.5/57/L.26)

Request for a subvention to the United Nations Institute for Disarmament Research resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (continued) (A/C.5/57/L.27)

Additional expenditures deriving from inflation and currency fluctuations (continued) (A/C.5/57/L.28)

28. **The Chairman** drew attention to draft decisions A/C.5/57/L.15, A/C.5/57/L.16, and A/C.5/57/L.17, draft decisions I, II and III in document A/C.5/57/L.19, draft decisions A/C.5/57/L.20 and A/C.5/57/L.21, draft resolution A/C.5/57/L.23, and draft decisions A/C.5/57/L.24, A/C.5/57/L.25, A/C.5/57/L.26, A/C.5/57/L.27 and A/C.5/57/L.28. He suggested that, in order to save time, the Committee should dispense with the introduction of the draft resolution and draft decisions, which were mostly of a procedural nature, and proceed immediately to take action on them.

29. **Ms. Udo** (Nigeria) said that her delegation was not ready to take action on draft decision A/C.5/57/L.27, since it wished to raise a number of questions concerning the draft decision in informal consultations.

30. **Ms. Silot Bravo** (Cuba) said that the Committee was being asked to take action on the draft resolution and draft decisions as a block. However, some of the texts had not been considered in informal consultations, and a number of them contained important issues that ought to be discussed separately. While her delegation would not object to the suggestion by the Chairman, she trusted that no precedent would be set.

31. **The Chairman** said he took it that the Committee wished to take action on the draft resolution and draft decisions, with the exception of draft decision A/C.5/57/L.27.

32. *It was so decided.*

33. *Draft decisions A/C.5/57/L.15, A/C.5/57/L.16 and A/C.5/57/L.17, draft decisions I, II and III in document A/C.5/57/L.19, draft decisions A/C.5/57/L.20 and A/C.5/57/L.21, draft resolution A/C.5/57/L.23, and draft decisions A/C.5/57/L.24, A/C.5/57/L.25, A/C.5/57/L.26 and A/C.5/57/L.28 were adopted.*

34. **Ms. Silot Bravo** (Cuba), speaking in explanation of her delegation's position on draft decision A/C.5/57/L.20, said that it had joined the consensus on the draft decision on the understanding that the measure requested in paragraph (b) would be without prejudice to the continued fulfilment of the commitment to fund the Development Account and that savings accrued would continue to be transferred to it. It also wished to reaffirm the relevant resolutions and decisions of the General Assembly.

Agenda item 111: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Procurement reform (continued) (A/C.5/57/L.22)

35. **Mr. Kendall** (Argentina) introduced draft resolution A/C.5/57/L.22.

36. *Draft resolution A/C.5/57/L.22 was adopted.*

Agenda item 147: Financing of the United Nations Mission in Bosnia and Herzegovina (*continued*) (A/C.5/57/L.18)

37. **The Chairman** drew attention to draft decision A/C.5/57/L.18. He recalled that, at its 20th meeting, the Committee had, at his suggestion, requested the Secretariat to prepare a draft decision on the proposed donation of assets to the Government of Bosnia and Herzegovina.

38. *Draft decision A/C.5/57/L.18 was adopted.*

The meeting rose at 4.05 p.m.